

ASSEMBLY BILL

No. 1476

Introduced by Assembly Member Chavez

February 21, 2003

An act to amend Sections 5097.94, 5097.96, and 21083.9 of the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1476, as introduced, Chavez. State park system: environmental quality.

(1) Under existing law, the Native American Heritage Commission has various powers and duties with regard to Native American sites and sacred places.

This bill would make technical, nonsubstantive changes in those provisions.

(2) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on any project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds the project will not have that effect. CEQA also requires a lead agency to call at least one scoping meeting for a proposed project that may affect highways or other facilities under the jurisdiction of the Department of Transportation, and for a project of statewide, regional, or areawide significance.

This bill would make a technical, nonsubstantive change in those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5097.94 of the Public Resources Code
2 is amended to read:
3 5097.94. The commission ~~shall have~~ *has* the following
4 powers and duties:
5 (a) To identify and catalog places of special religious or social
6 significance to Native Americans, and known graves and
7 cemeteries of Native Americans on private lands. The
8 identification and cataloguing of known graves and cemeteries
9 shall be completed on or before January 1, 1984. The commission
10 shall notify landowners on whose property ~~such~~ *these* graves and
11 cemeteries are determined to exist, and shall identify the Native
12 American group most likely descended from those Native
13 Americans who may be interred on the property.
14 (b) To make recommendations relative to Native American
15 sacred places that are located on private lands, are inaccessible to
16 Native Americans, and have cultural significance to Native
17 Americans for acquisition by the state or other public agencies for
18 the purpose of facilitating or assuring access thereto by Native
19 Americans.
20 (c) To make recommendations to the Legislature relative to
21 procedures ~~which~~ *that* will voluntarily encourage private property
22 owners to preserve and protect sacred places in a natural state and
23 to allow appropriate access to Native American religionists for
24 ceremonial or spiritual activities.
25 (d) To appoint necessary clerical staff.
26 (e) To accept grants or donations, real or in kind, to carry out
27 the purposes of this chapter.
28 (f) To make recommendations to the Director of Parks and
29 Recreation and the California Arts Council relative to the
30 California State Indian Museum and other Indian matters touched
31 upon by department programs.
32 (g) To bring an action to prevent severe and irreparable damage
33 to, or assure appropriate access for Native Americans to, a Native
34 American sanctified cemetery, place of worship, religious or
35 ceremonial site, or sacred shrine located on public property,

1 pursuant to Section 5097.97. If the court finds that severe and
2 irreparable damage will occur or that appropriate access will be
3 denied, and appropriate mitigation measures are not available, it
4 shall issue an injunction, unless it finds, on clear and convincing
5 evidence, that the public interest and necessity require otherwise.
6 The Attorney General shall represent the commission and the state
7 in litigation concerning affairs of the commission, unless the
8 Attorney General has determined to represent the agency against
9 whom the commission's action is directed, in which case the
10 commission shall be authorized to employ other counsel. In any
11 action to enforce ~~the provisions of~~ this subdivision, the
12 commission shall introduce evidence showing that ~~such~~ *the*
13 cemetery, place, site, or shrine has been historically regarded as a
14 sacred or sanctified place by Native American people and
15 represents a place of unique historical and cultural significance to
16 an Indian tribe or community.

17 (h) To request and utilize the advice and service of all federal,
18 state, local, and regional agencies.

19 (i) To assist Native Americans in obtaining appropriate access
20 to sacred places that are located on public lands for ceremonial or
21 spiritual activities.

22 (j) To assist state agencies in any negotiations with agencies of
23 the federal government for the protection of Native American
24 sacred places that are located on federal lands.

25 (k) To mediate, upon application of either of the parties,
26 disputes arising between landowners and known descendents
27 relating to the treatment and disposition of Native American
28 human burials, skeletal remains, and items associated with Native
29 American burials.

30 The agreements shall provide protection to Native American
31 human burials and skeletal remains from vandalism and
32 inadvertent destruction and provide for sensitive treatment and
33 disposition of Native American burials, skeletal remains, and
34 associated grave goods consistent with the planned use of, or the
35 approved project on, the land.

36 (l) To assist interested landowners in developing agreements
37 with appropriate Native American groups for treating or
38 disposing, with appropriate dignity, of the human remains and any
39 items associated with Native American burials.

1 SEC. 2. Section 5097.96 of the Public Resources Code is
2 amended to read:

3 5097.96. The commission may prepare an inventory of
4 Native American sacred places that are located on public lands and
5 shall review the current administrative and statutory protections
6 accorded to ~~such~~ these places. The commission shall submit a
7 report to the Legislature no later than January 1, 1979, in which the
8 commission shall report its findings as a result of these efforts and
9 shall recommend ~~such~~ those actions as the commission deems
10 necessary to preserve these sacred places and to protect the free
11 exercise of the Native American religions.

12 SEC. 3. Section 21083.9 of the Public Resources Code is
13 amended to read:

14 21083.9. (a) Notwithstanding Section 21080.4, 21104, or
15 21153, a lead agency shall call at least one scoping meeting for
16 either of the following:

17 (1) A proposed project that may affect highways or other
18 facilities under the jurisdiction of the Department of
19 Transportation if the meeting is requested by the department. The
20 lead agency shall call the scoping meeting as soon as possible, but
21 not later than 30 days after receiving the request from the
22 Department of Transportation.

23 (2) A project of statewide, regional, or areawide significance.

24 (b) The lead agency shall provide notice of at least one scoping
25 meeting held pursuant to paragraph (2) of subdivision (a) to all of
26 the following:

27 (1) Any county or city that borders on a county or city within
28 which the project is located, unless otherwise designated annually
29 by agreement between the lead agency and the county or city.

30 (2) Any responsible agency.

31 (3) Any public agency that has jurisdiction by law with respect
32 to the project.

33 (4) Any organization or individual who has filed a written
34 request for the notice.

35 (c) For any entity, organization, or individual that is required
36 to be provided notice of a lead agency public meeting, the
37 requirement for notice of a scoping meeting pursuant to
38 subdivision (b) may be met by including the notice of a scoping
39 meeting in the public meeting notice.

1 (d) A scoping meeting that is held in the city or county within
2 which the project is located pursuant to the National
3 Environmental Policy Act (42 U.S.C. Sec. 4321 et seq.) and the
4 regulations adopted pursuant to that act shall be deemed to satisfy
5 the requirement that a scoping meeting be held for a project subject
6 to paragraph (2) of subdivision (a), if the lead agency meets the
7 notice requirements of subdivision (b) or subdivision (c).

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